

Senate Bill No. 1136

Passed the Senate August 11, 2014

Secretary of the Senate

Passed the Assembly August 7, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1522.08 of the Health and Safety Code, and to add Section 16504.7 to the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, Huff. Foster care providers: criminal records.

Existing law requires the State Department of Social Services to license and regulate community care facilities, including foster family homes, certified family homes of licensed foster family agencies, and group homes. Existing law requires that persons providing care or services at these homes or facilities obtain either a criminal record clearance or an exemption from disqualification from the department, as prescribed.

Existing law authorizes a child welfare agency to secure from an appropriate governmental criminal justice agency the state summary criminal history information for specified purposes, including an assessment of the appropriateness of placing a child subject to the jurisdiction of the juvenile court with a relative or nonrelative extended family member. Existing law also requires the Department of Justice to provide information contained in the Child Abuse Central Index to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties.

This bill would authorize the State Department of Social Services and county child welfare agencies to share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of a person from a facility who is subject to a background check.

The bill would require the State Department of Social Services to provide, upon the request of a county child welfare agency, a list of each person who has received a criminal records exemption related to a licensed or certified foster home, so that the county may assess the appropriateness of placing a child in the foster home with which the individual is associated. The bill would also

authorize the department to share with the county child welfare agency summary information, as defined, related to a criminal record clearance or exemption granted by the department, except as otherwise limited by state or federal law. The bill would prohibit the department from disclosing the names of individuals who are not the subject of the exemption request or disclosing more information than is necessary, as determined by the department and in accordance with state and federal law, to assess the appropriateness of placing a child in a licensed or certified foster home. The bill would require the department to issue an all-county letter on or before March 1, 2015, that specifies the process by which a county may request summary information, how the information will be issued by the department, and how the information may be used by a county.

The people of the State of California do enact as follows:

SECTION 1. Section 1522.08 of the Health and Safety Code, as amended by Section 15 of Chapter 22 of the Statutes of 2013, is amended to read:

1522.08. (a) In order to protect the health and safety of persons receiving care or services from individuals or facilities licensed or certified by the state, the following information may be shared:

(1) The California Department of Aging, State Department of Public Health, State Department of Health Care Services, State Department of Social Services, and the Emergency Medical Services Authority may share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of any person from a facility who is subject to a background check, as otherwise provided by law.

(2) The State Department of Social Services and county child welfare agencies may share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of any person from a facility who is subject to a background check, as otherwise provided by law.

(b) The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of final administrative actions, to be used by the California Department of Aging, State Department of Public Health, State Department of Health Care Services, State Department of Social Services, the Emergency Medical Services Authority, and county child welfare agencies as a part of the background check process. The State Department of Social Services may charge a fee to departments under the jurisdiction of the California Health and Human Services Agency and to county child welfare agencies sufficient to cover the cost of providing those departments with the final administrative action specified in subdivision (a). To the extent that additional funds are needed for this purpose, implementation of this subdivision shall be contingent upon a specific appropriation provided for this purpose in the annual Budget Act.

(c) The State Department of Social Services, in consultation with the other departments under the jurisdiction of the California Health and Human Services Agency, may adopt regulations to implement this section.

(d) For the purposes of this section and Section 1499, “administrative action” means any proceeding initiated by the California Department of Aging, State Department of Public Health, State Department of Health Care Services, State Department of Social Services, and the Emergency Medical Services Authority to determine the rights and duties of an applicant, licensee, or other individual or entity over which the department has jurisdiction. “Administrative action” may include, but is not limited to, action involving the denial of an application for, or the suspension or revocation of, any license, special permit, administrator certificate, criminal record clearance, or exemption.

SEC. 2. Section 16504.7 is added to the Welfare and Institutions Code, to read:

16504.7. (a) Upon request by a county child welfare agency, the department shall provide a list identifying each person who has received a criminal records exemption pursuant to subdivision (g) of Section 1522 of the Health and Safety Code related to a licensed or certified foster home so that the county may assess the appropriateness of placing a child who has been detained or is a dependent of the court in the licensed or certified foster home with which the individual is associated.

(b) Except as otherwise limited by state or federal law, the department shall make available to the county child welfare agency, summary information used in making the determination to grant the exemption. The department shall consult with the Department of Justice, counties, and other interested stakeholders to ensure that information is shared expeditiously and in accordance with state and federal law.

(c) For purposes of this section, “summary information” means information pertaining to the specific crimes for which the exemption was requested and a summary of the evidence the department used in making its determination to grant the exemption. The information shall be limited to one page for each crime exempted.

(d) In providing summary information pursuant to this section, the department shall not disclose the names of individuals who are not the subject of the exemption request. County child welfare agencies shall not disclose information related to the exemption beyond what is necessary, as determined by the department and in accordance with state and federal law, to assess the appropriateness of placing a child in a licensed or certified foster home.

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department shall implement this section by means of an all-county letter issued on or before March 1, 2015. The all-county letter shall specify the process by which a county may request summary information, how the information will be issued by the department, and how the information may be used by a county.

Approved _____, 2014

Governor